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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Petition for Clarification and )  
Modification of Pay-Per-Call Rules )

RM-7990

REPLY OF AMERICAN  
TELEPHONE AND TELEGRAPH COMPANY

Pursuant to the Commission's June 2, 1992 Public Notice,<sup>1</sup> American Telephone and Telegraph Company ("AT&T") hereby replies to the comments of others on the petition filed April 30, 1992 by thirty-four state attorneys general and the 900 Number Subcommittee of the Consumer Protection Committee of the National Association of Attorneys General.<sup>2</sup> The petition requests that the Commission: (i) "clearly

<sup>1</sup> Public Notice, DA 92-602, released June 2, 1992.

<sup>2</sup> Comments were also filed by the Alabama Public Service Commission ("APSC"); Consumer Action ("CA"); MCI Telecommunications Corporation ("MCI"); the 900 Number Subcommittee of the Consumer Protection Committee of the National Association of Attorneys General ("the States"); the Pennsylvania Office of Consumer Advocate ("OCA"); the National Association of State Utility Consumer Advocates ("NASUCA"); Pilgrim Telephone, Inc. ("Pilgrim"); Southwestern Bell Telephone Company ("SWBT"); Sprint Communications Company L.P. ("Sprint"); the United States Telephone Association ("USTA"); VoiceLink, Inc. ("VoiceLink"); and VRS Billing Systems ("VRS").

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affir[m]" that services using interstate 800 transport are subject to the regulations adopted in the Pay-Per-Call Services Order;<sup>3</sup> and (ii) prohibit interstate carriers from providing 800 transmission service for applications in which callers are billed premium charges through the use of tone generation technology, automatic number identification ("ANI"), or "billing detail information."

All commenters agree that the Commission's pay-per-call regulations do (or should) apply to all pay-per-call services, regardless of the dialing prefix used for such calls. In fact, as most commenters correctly observe, the Commission has already explicitly held in the Pay-Per-Call Services Order that there is "no valid technical or legal reason" why pay-per-call services should not be subject to the preamble and other disclosure requirements "simply because they are on an exchange other than 900."<sup>4</sup> Thus, there is no change required to the existing Commission rules to confirm their applicability to pay-per-call services provided using 800 service.

Many commenters also confirm the near universal customer expectation that 800 service is toll-free. For

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<sup>3</sup> In the Matter of Policies and Rules Concerning Interstate 900 Telecommunications Services, 6 FCC Rcd. 6166 (1991) ("Pay-Per-Call Services Order").

<sup>4</sup> Id. at 6180; see APSC, pp. 2-3; AT&T, p. 2; MCI, pp. 1-2; Pilgrim, p. 3; SWBT, p. 2; Sprint, pp. 1-2; VoiceLink, p. 1; VRS, p. 2.

example, CA observes (p. 3) that "[c]onsumers associate 800 numbers with being toll-free to the caller." APSC states (p. 3) that consumers have the "general perception . . . that 800 numbers equate to a free call."<sup>5</sup> And the States explain (p. 2) that, "any scheme or device used to charge callers for [an 800] call is inherently deceptive."

It is for this reason that the petition's second request seeks a modification to the Commission's rules that would ensure that callers are not charged for 800 service calls without their knowledge or consent. As AT&T explained in its comments (pp. 3-4), however, AT&T's tariffs already accomplish this purpose by prohibiting the use of AT&T's 800 service in the manner described by the petitioners, and authorizing the withdrawal of 800 service from customers who violate this prohibition.<sup>6</sup> Both MCI (p. 3) and

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<sup>5</sup> See also AT&T, p. 3; NASUCA, p. 3; SWBT, p. 2.

<sup>6</sup> In all events, there is no need for a sweeping Commission rule that would prohibit any provision of "800 numbers to pay-per-call providers" by interexchange carriers as SWBT suggests (p. 3). Such a rule would obviously deny service to legitimate information providers. Nor is such a rule in any way justified by SWBT's mistaken representation (p. 5) that interexchange carriers have "circumvented the billing party's wishes" and "bill[ed] for calls to 800 numbers." AT&T certainly does not bill a caller for an 800 service call. And interexchange carriers, just like exchange carriers as explained by USTA (p. 2), cannot undertake to monitor the services being provided over their 800 services. In particular, when an information provider uses a third party to bill for its services, "information about a service being offered within a call is typically outside the knowledge of the . . . carrier" (*id.*). Moreover, Pilgrim observes (p. 4) "[m]onitoring of the calls by

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Sprint (p. 3) indicate that they have adopted tariff revisions that are also intended to achieve the same result. If other carriers offering 800 service likewise elect to file appropriate tariff changes to ensure that a caller is not charged for using 800 service without the caller's knowledge or consent (as at least AT&T, MCI, and Sprint have), the Commission and interested parties could avoid the time and expense of a rulemaking proceeding.

CONCLUSION

For all these reasons, the Commission should reaffirm that the pay-per-call rules apply to 800 service, and find that a rulemaking proceeding would not be needed if carriers modify their tariffs, if necessary, to ensure that 800 service callers are not charged for 800 service calls.

Respectfully submitted,

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the [interexchange carrier] would not be permissible under law, however, and would be contrary to public policy."

CERTIFICATE OF SERVICE

I, Alice Popelka, do hereby certify that on this 28th day of July, 1992, a copy of the foregoing Reply of American Telephone and Telegraph Company was mailed by U.S. first class mail, postage prepaid, to the parties listed on the attached service list.

  
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Dated: July 28, 1992

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